

**Commerce & Labor Committee
House of Representatives
State of Washington**

Final Report for 2004

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House of Representatives
State of Washington

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2004 SESSION REPORT House Commerce & Labor Committee

Summary of Major Legislation

BUSINESS LICENSING

Accountancy

The Washington Board of Accountancy requested legislation to conclude several years of review that began with the Legislature's comprehensive reform of public accounting in 2001. In this year's bill, **SB 6123**, the Legislature adopted a number of changes the Board recommended after an advisory committee process. The changes include: (1) authorizing penalties against applicants, certain non-CPAs, and CPAs practicing public accounting with a revoked or suspended license; (2) extending until June 30, 2006, the grace period in which a certificate holder may convert to a CPA licensee; (3) allowing alternative experience requirements for reciprocity applicants from other states; and (4) allowing members of the Board of Accountancy to serve three, instead of two, successive complete terms.

Cosmetology

In 2002 several bills were enacted relating to cosmetology licensure. Among other things, these bills allowed currently licensed cosmetologists a "grace" period until June 30, 2003, to apply for separate licenses in manicuring and esthetics without taking the examination. In **SB 6341**, this grace period is extended to June 30, 2005. The bill also specifies that it is unlawful to engage in cosmetology, barbering, esthetics, manicuring, or related professions without having a license in good standing. The bill allows licensees to obtain a limited inactive license.

Other Professional Licensure

In **SHB 2657**, the Legislature increased requirements for private security guards. The hours of training required before beginning work increased from four to eight hours, and in-service training requirements were established.

SHB 2313, passed by the Legislature, establishes a system of mandatory licensing for bail bond recovery agents, commonly known as bounty hunters, and sets standards for their conduct. In addition, the bill permits out-of-state bail bond recovery agents to work in Washington only under supervision and requires that all bond recovery agents operate under contract with a bail bond agent. Finally, the bill mandates prior notification of local law enforcement and identifying clothing when bail bond recovery agents make a planned forced entry to apprehend a fugitive.

In **SSB 6103**, the Legislature dealt with the issue of extreme fighting events. The bill requires that amateur boxing, wrestling and martial arts events, exempt from oversight by the Department of Licensing (Department), be sponsored by one of several established amateur sporting organizations, or a similar association approved by the Department. The bill also tightens the definition of "amateur" to restrict it to persons who have never competed for more than \$50. Finally, the bill specifically bans several types of fighting events, either professional or amateur, including "no holds barred" and "toughman."

COLLECTIVE BARGAINING

Teachers

Several well publicized teacher collective bargaining disputes occurred during 2003. The Committee considered **HB 2343**, which would have prohibited teacher strikes and lockouts and provided for binding interest arbitration to settle negotiation disputes. The bill was not reported out of the Committee.

Home Care Workers

ESHB 2933 made a number of changes to Initiative 775, which established a collective bargaining process for individual home care workers. The bill clarifies the various responsibilities for this collective bargaining and requires the Governor or Governor's Labor Relations Office to conduct the bargaining. It expressly states that individual home care workers are not state employees and that collective bargaining law governs the collective bargaining relationship, not the employment relationship. The bill adds several new provisions including that: (1) only collective bargaining may determine wages, hours, and working conditions for individual home care workers, but this does not modify, among other things, the authority of the Department of Social and Health Services (DSHS) to establish plans of care and terminate contracts with providers, and the Legislature's authority to make program changes; (2) the collective bargaining process must include: review of funding requests by the Office of Financial Management, consultation with the Joint Committee on Employment Relations, submission of the funding request in the Governor's proposed budget, requirement for the parties to renegotiate if there is a significant revenue shortfall, requirement for an arbitration panel to consider the state's ability to pay, and requirement for an arbitration award to be funded before it becomes binding; and (3) the state and the DSHS are not vicariously or jointly liable for action or inaction by individual home care workers and certain listed circumstances do not create a special relationship with the consumer.

Ferry Workers

In December 2003, the Marine Employees Commission decided an unfair labor practice case involving Requests for Proposals (RFPs) issued by the Washington State Ferries (WSF) for food service contracts on Washington ferries. It found that when the WSF

chose, without first bargaining with the union, to eliminate a provision in the RFPs requiring contractors to give preferential hiring to current galley employees or to assume their existing collective bargaining agreement, the WSF violated its statutory obligation to bargain. The Commerce & Labor Committee reported a substitute bill for **HB 3113** that would have required the WSF and ferry workers to negotiate over the practice of including these two clauses in RFPs for contracts to operate vessel galley services. The bill was then referred to the Transportation Committee which reported a second substitute bill that would have added a provision stating that the Commission's jurisdiction is a matter of continuing and substantial public interest and that the bill's provisions relating to past practices are not intended to affect the court's power to review any Commission decision on appeal. The bill died in the House Rules Committee.

State Patrol Officers

EHB 3183 would have required, for state patrol officers, bargaining of wages and wage-related matters with the Governor's designee and bargaining of non-wage matters with the State Patrol. The bill also would have added that an arbitration award is not binding on the Legislature and, if the Legislature does not approve funding for the wage and wage-related matters, is not binding on the state or the Washington State Patrol. The bill died in the Senate Highways & Transportation Committee.

Other

In **HB 2926**, the Washington Human Rights Commission would have been authorized to hold a hearing to determine whether a person's right to form, join, or assist a labor organization was interfered with or restrained by another. The bill was not reported from Committee. Another bill that was reported from Committee, **HJM 4037**, would have asked the Congress to adopt the "Employee Free Choice Act," which would modify various provisions of the National Labor Relations Act.

EMPLOYMENT - GENERAL

Discrimination

The Legislature passed **ESB 6180**, which prohibits employers from requiring their employees to submit genetic information or submit to genetic screening as a condition of employment.

Leave

The Committee considered two bills, **HB 2399** and **HB 2940**, relating to family leave. **HB 2399** would have established a family leave insurance program, paid benefits of \$250 per week for up to five weeks to employees on unpaid family leave, and assessed premiums of 2 cents per hour worked per employee to be paid equally by employers and

employees. The bill was not reported out of the Committee. **HB 2940** would have made certain employees entitled to take up to four hours of leave per calendar quarter to participate in parent-teacher school conferences. The bill died on the House Second Reading Calendar.

Minimum Wage Rate

Several bills, including **HB 2292**, **HB 2981**, and **SB 5697**, would have modified the state minimum wage rate. None of these bills was reported out of the Committee.

GAMBLING, HORSE RACING, AND LOTTERY

Compulsive Gambling

The House passed **E2SHB 2776** to provide temporary funding to re-start a Department of Social and Health Services (DSHS) treatment program for problem gamblers and to seek a permanent funding source for this program. This year's legislation would have broadened the DSHS problem gambling program to cover prevention and treatment for problem gambling and training of professionals in identification and treatment of problem gambling. The bill would have established a Joint Legislative Task Force on Problem Gambling, to include representatives of all sectors of the gambling and gaming industry, to recommend to the Legislature by December 1, 2004, a mechanism for fair contributions by all who conduct gambling activities to fund treatment of problem gambling. A Problem Gambling Treatment Account would have been created, with funds in the account to be used for the problem gambling program. In the operating budget, \$500,000 would have been transferred from the Gambling Revolving Fund to the Problem Gambling Treatment Account. However, this appropriation was contingent on the passage of the bill. The bill died on the Senate First Reading Calendar.

Horse Racing

In **SHB 2575**, the Legislature directed that the Horse Racing Commission's bank accounts be moved from a local bank to accounts in the custody of the State Treasurer. The purpose of this change is to generate interest from the Commission's operating account to support non-profit racetracks, in turn reducing the amount from Commission operating funds that must be used for this purpose.

ESSB 6481 allows the Washington Horse Racing Commission to authorize a class 1 racing association to conduct parimutuel wagering on imported simulcast races at satellite locations and, until October 1, 2007, to authorize a class 1 racing association or its contractor to conduct advance deposit wagering (ADW) in which individuals deposit funds to pay for wagers made in person, by telephone, or through communication by other electronic means. These ADW operators may not accept an account wager that

exceeds the funds on deposit and may not allow an individual under the age of 21 to open or have access to an ADW account.

Local Zoning

For several years, the Legislature has considered bills that would address a local jurisdiction's land use and zoning authority over gambling. **HB 1667**, which died on the Senate Second Reading Calendar would have expressly stated that the Gambling Act does not limit a local jurisdiction's authority to exercise land use and zoning powers with respect to gambling activities authorized under the Act.

INDUSTRIAL INSURANCE

Health Care Providers

Two bills passed by the Legislature allow providers other than physicians to perform certain functions related to injured workers. **SHB 1691** gives advanced registered nurse practitioners, until July 1, 2007, nearly the same roles and responsibilities as physicians, including authority to sign accident report forms and authorize time loss. A second bill, **SB 6356** authorizes physician assistants, until July 1, 2007, to assist workers who are filing claims for simple industrial injuries in applying for compensation.

Another bill, **SSB 6428**, addresses issues related to health care providers. If a provider appeals a Department of Labor and Industries (Department) order terminating the provider's authority to provide services to injured workers, the Department may request immediate suspension of the provider's eligibility to provide the services.

Liability for Premiums, Overpayments, & Penalties

Various bills were proposed by the Department of Labor and Industries (Department) to address fraud in the workers' compensation system. Ultimately, **ESHB 3188** passed the Legislature with provisions from three bills that: (1) define "willful misrepresentation" as obtaining industrial insurance benefits greater than the amount to which the person is entitled by willful false statement or willful misrepresentation, omission, or concealment of a material fact; (2) modify business liability by increasing successor liability for industrial insurance premiums owed by predecessor businesses, adding a requirement to qualify for an exemption from contractor liability for industrial insurance premiums owed for work performed by subcontractors, and establishing corporate officer liability for certain industrial insurance premiums owed by corporations that have gone out of business; and (3) authorize the Department to use statutory collection procedures against health care providers who are overpaid.

Preferred Workers

Another bill passed by the Legislature, **SSB 6615**, authorizes the Department of Labor and Industries to adopt "preferred worker" rules to encourage employment of injured workers who have developmental disabilities. These rules may provide relief from premiums and claim costs for employers that employ these workers.

Other

Other bills dealing with workers' compensation were not reported out of the Committee, in part because of anticipated recommendations from a work group to be convened by the Governor to review workers' compensation issues. These bills included:

- **HB 2880** and **SSB 6414**, which would have required annual audits of the state funds;
- **HB 2916** and **SSB 6391**, which would have required the Department of Labor and Industries (Department) to annually assess whether its programs and activities contribute to its priorities for delivery of services;
- **HB 2917** and **SSB 5378**, which would have modified the definition of "wages" for calculating workers' compensation benefits and addressed certain other benefit determination issues;
- **HB 2918**, which would have made numerous changes to the industrial insurance system, including accident reporting, final settlements of claims, administration of claims, managed health care, payroll-based premiums, attorneys' fees, and permissible uses of industrial insurance funds;
- **HB 2946** and **ESB 6317**, which would have given self-insurers nearly the same authority for managing their claims as the Department has for managing state fund claims;
- **HB 2947**, which would have required the Department to contract with a third-party to manage the claims of insolvent self-insured employers;
- **ESSB 6395**, which would have modified accident reporting requirements and eliminated the "change of circumstances" application; and
- **SB 6461**, which would have required the Department to report to the Legislature on the positive and negative aspects of using payroll, instead of hours, in reporting premiums.

LIQUOR

ESB 6737, passed by the Legislature, specifies that the prices posted by beer and wine distributors and suppliers are not subject to public disclosure prior to their effective date.

E2SHB 2131, which would have temporarily repealed the prohibition on Sunday sales of hard liquor, directed the Liquor Control Board to conduct a pilot program to test Sunday opening of selected state liquor stores. The pilot was set to end, and the prohibition on Sunday sales to resume, on July 1, 2007. Churches and schools were to be notified regarding a proposed Sunday opening in the same manner as they are required to be notified under current law regarding a nearby liquor license application. Liquor store employees were not to be required to work on their Sabbath if doing so violated their religious beliefs. The bill also directed the Liquor Control Board to do in-store merchandising. The bill died in the Senate Ways & Means Committee.

OUTSOURCING

Outsourcing was the subject of more than half a dozen bills, none of which passed the Legislature. Several bills dealt with studying or prohibiting offshore outsourcing of work performed under certain state contracts. Other bills would have regulated contact centers. Another bill would have required advance notice of layoffs involving training of successor employees.

Studies

EHCR 4419 would have created a joint task force to conduct a study of offshore outsourcing, and required the joint task force to report its findings and recommendations to certain legislative committees by December 1, 2004. The resolution passed the House, but died on the Senate First Reading Calendar.

A proviso in the House version of the supplemental operating budget (Section 118(9) of **ESHB 2459** as passed the House) would have required the Office of Financial Management to report to certain legislative committees on its review of certain state contracts performed at locations outside the United States and other issues related to outsourcing by December 1, 2004. This proviso was not included in the final version of the budget passed by the Legislature.

State Procurement

SHB 3187 would have prohibited work under certain state contracts from being performed at locations outside the United States. The bill was held on the House Second Reading Calendar until the end of the regular session without final action. (Two other bills, **HB 2405** and **HB 2768**, would have required that work under certain state contracts

be performed by persons authorized to work in the United States. These bills were not reported out of the Committee.)

Other

SHB 3186, which would have required contact center employees to identify their employer's identity and location, died in the House Rules Committee. (Another bill on contact centers, **HB 2351**, was not reported out of the Committee.)

SHB 2352, which would have required certain employers to give affected employees 10 days' advance notice of a layoff of workers required to train other persons to perform their job duties, also died in the House Rules Committee.

UNEMPLOYMENT COMPENSATION

The Legislature passed **HJM 4031**, urging Congress and the President to extend federal temporary unemployment compensation benefits.

Generally, workers involved in a strike are not eligible for unemployment benefits, while workers in a lockout are eligible. When the workers are in a multi-employer bargaining unit, however, and the lockout is in response to a strike of one of the employers, the locked out workers are not eligible for benefits. Under **HB 3160**, these disqualifications from benefits would have been removed when the dispute arose from negotiations in which the employer's last offer before the start of the strike or lockout would have resulted in a substantial deterioration of working conditions. The bill died on the House Second Reading Calendar.

WORKFORCE TRAINING

A requirement for apprentice utilization on state public works projects in **SHB 2439** was passed by the House, but died in the Senate Commerce & Trade Committee.

WORKPLACE SAFETY

Mandatory cholinesterase monitoring of certain farm workers was the subject of **2SSB 6599** and two supplemental operating budget provisos (**ESHB 2459**). In 2002 the state Supreme Court issued its decision in *Rios v. Department of Labor and Industries*, and ordered the Department "to initiate rulemaking on a mandatory cholinesterase monitoring program for agricultural pesticide handlers."

In 2003 the Legislature passed 2SSB 5890, which required the Department and others to report to the Legislature on the Department's rulemaking process. The Legislature also

specified in the operating budget that \$378,000 from the Department's Accident Account appropriation be used for contracting with medical laboratories to provide cholinesterase monitoring, and to collect and analyze data related to such monitoring. In 2004 the Department's rule on cholinesterase monitoring took effect.

In 2004 the Legislature passed **2SSB 6599**, which requires the Department to collect, correlate, and analyze certain data related to cholinesterase tests. (The Governor vetoed a section requiring the Department to make reasonable reimbursements on a quarterly basis as specified in the 2003-05 operating budget.) The supplemental operating budget (**ESHB 2459**) increased the amount originally appropriated from the Accident Account for cholinesterase monitoring from \$378,000 to \$578,000. It also appropriated an additional \$453,000 from the Accident Account to reimburse agricultural employers for certain compliance costs.

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Enacted Bills

BILL NO.	PRIME SPONSORS	SUMMARY	SINE DIE STATUS
<i>BUILDING & CONSTRUCTION</i>			
SB 6586	Honeyford	<i>Electrical code -- work on boilers.</i> Extends the period, until December 1, 2004, during which enforcement of the electrical code as applied to maintenance work on electrical controls of boilers is suspended.	C 67 L 04
SSB 6649	Benton	<i>Mobile/manufactured homes and factory assembled structures.</i> Extends authority, until April 1, 2009, for a statewide fee schedule to apply to mobile/manufactured homes and factory assembled structures.	C 137 L 04
SB 6650	Keiser	<i>Elevator code -- private residential conveyances.</i> Delegates rule-making authority related to private residential conveyances to the Department of Labor and Industries.	C 66 L 04
<i>BUSINESS LICENSING & REGULATION</i>			
SHB 2313	Carrell	<i>Bail bond recovery agents.</i> Establishes a system of mandatory licensing and contracting for bail bond recovery agents (bounty hunters); and requires prior notice to local law enforcement and identifying clothing when bail bond recovery agents make a planned forced entry to apprehend a fugitive.	C 186 L 04
SHB 2657	Morrell	<i>Security guards.</i> Increases the hours of training security guards must complete before being assigned to work independently; requires additional hours of in-service training; and provides that recent former law enforcement officers who pass the pre-licensing exam may be exempt from pre-licensing training.	C 50 L 04
SSB 6103	Zarelli	<i>Extreme fighting.</i> Narrows the definition of amateur; requires that amateur events be sanctioned by certain organizations; and bans certain types of amateur or professional fighting events.	C 149 L 04
SB 6123	Carlson	<i>Public accounting.</i> Makes various changes to the Public Accountancy Act, including adding penalties for imposters and exam cheaters, extending certain grace periods to obtain a certified public accountant license, and revising experience requirements for reciprocity applicants from other states.	C 159 L 04
SSB 6341	Oke	<i>Cosmetologists.</i> Specifies that it is unlawful to engage in cosmetology, barbering, esthetics, manicuring, or related professions without having a license in good standing; creates an inactive license status; and extends the "grace" period to June 30, 2005, during which a license holder may renew an expired license or obtain an additional license in barbering, manicuring, or esthetics without taking the applicable examination.	C 51 L 04
SSB 6377	Honeyford	<i>Transient accommodations.</i> Modifies the timing for renewal and expiration of transient accommodation (hotels, motels, etc.) licenses.	C 162 L 04

BILL NO.	PRIME SPONSORS	SUMMARY	SINE DIE STATUS
COLLECTIVE BARGAINING			
ESHB 2933	Conway	Home care workers. Requires the Governor's Labor Relations Office to conduct bargaining with the home care workers' bargaining representative; expressly states that individual home care workers are not state employees; adds that only collective bargaining may determine wages, hours, and working conditions for individual home care workers but does not modify certain authority of the Department of Social and Health Services or the Legislature; adds various requirements related to funding requests; and adds that the state and the Department of Social and Health Services are not vicariously or jointly liable for action or inaction by individual home care workers under certain conditions.	C 3 L 04
EMPLOYMENT			
SHB 2507	Conway	Overpayments of wages. Authorizes counties and cities, as employers, to recover overpayments of salary or wages to employees; and establishes a process, including notice and an opportunity to be heard, for reviewing and recovering overpayments of salary or wages.	C 7 L 04
HB 2601	Lovick	Unlawful discharge of reserve officers. Prohibits employers with 20 or more employees from discharging or disciplining reserve officers because of leave related to emergency calls.	C 12 L 04
ESB 6180	Franklin	Genetic information. Prohibits employers from requiring the submission of genetic information as a condition of employment.	C 12 L 04
GAMBLING, HORSE RACING & LOTTERY			
SHB 2575	Cairnes	Commission accounts. Transfers two local Washington Horse Racing Commission accounts to three state treasurer trust accounts; exempts the interest earned from these three accounts from being deposited in the state General Fund; and authorizes the Commission to levy fines for violations of rules.	C 246 L 04
ESSB 6481	Hewitt	Internet wagering. Allows the Washington Horse Racing Commission to authorize a class 1 racing association to conduct parimutuel wagering on imported simulcast races at satellite locations; and allows, until October 1, 2007, the Commission to authorize a class 1 racing association or its contractor to conduct advance deposit wagering, in which an individual deposits funds to pay for wagers made in person, by telephone, or through communication by other electronic means.	C 274 L 04
LIQUOR			
SHB 2685	Hudgins	Forms of identification. Specifies that military identification that includes an imbedded digital signature, rather than a visible one, is an acceptable form of identification for purchasing liquor; and gives the Liquor Control Board authority to set rules regarding acceptable forms of identification.	C 61 L 04
HB 2794	Condotta	Payment using debit and credit cards. Permits businesses licensed by the Liquor Control Board, such as restaurants and bars, to purchase liquor from state liquor stores or vendors using debit and credit cards.	C 63 L 04

BILL NO.	PRIME SPONSORS	SUMMARY	SINE DIE STATUS
SB 6480	Hewitt	<i>Special occasion liquor license – fairs.</i> Permits fairs to count one multi-day event per year as only one day toward their 12-day-per-year limit on sale of alcoholic beverages; and requires that notice be given to both the county and the city legislative authorities regarding any special occasion liquor license application for a fair held on county-owned property or premises located within a city.	C 133 L 04
SSB 6584	Hewitt	<i>Caterers on winery premises.</i> Permits restaurant licensees with a caterer's endorsement to operate on winery premises under certain conditions.	C 62 L 04
SSB 6655	Hewitt	<i>Beer and wine manufacturers and distributors.</i> Requires authorized representatives for breweries and wineries outside of Washington, either within the United States or foreign, to obtain a certificate of approval from the Liquor Control Board (Board) to sell beer or wine in Washington; requires certificate holders to post prices and meet other liquor control requirements; and directs the Board to set the fee for a certificate of approval to cover the cost of regulating certificate holders.	C 160 L 04
ESB 6737	Hewitt	<i>Beer and wine price postings.</i> Makes beer and wine price postings confidential and not subject to public disclosure.	C 269 L 04
UNEMPLOYMENT COMPENSATION			
HB 2509	McCoy	<i>Technical corrections.</i> Corrects references to domestic violence provisions.	C 110 L 04
SHB 2510	Conway	<i>Penalties for evading successor employer requirements.</i> Changes the unemployment insurance contribution rate to the highest applicable rate, plus 2 percent, for a calendar year for businesses found to be evading the successor employer requirements.	C 97 L 04
HJM 4031	Conway	<i>TEUC.</i> Urges Congress and the President to extend the federal temporary extended unemployment compensation program.	HFiled Sec/St
WORKERS' COMPENSATION			
SHB 1691	Grant	<i>Advanced registered nurse practitioners.</i> Gives ARNPs nearly the same roles and responsibilities as physicians, including authority to sign accident report forms and time loss authorizations; requires the Department of Labor and Industries to report to specified legislative committees by December 1, 2006, on the implementation of the act; and provides that substantive provisions of the act expire June 30, 2007.	C 65 L 04
SHB 3057	Conway	<i>Social security offset.</i> Allows the current offset against workers' compensation time loss or pension benefits (taken because the claimant is receiving federal disability benefits) to continue without regard to the age of the claimant who is receiving the federal disability benefits.	C 92 L 04
SHB 3188	Conway	<i>Liability for payment to the Department of Labor and Industries.</i> Defines it as willful misrepresentation when industrial insurance benefits are obtained that are greater than the amount to which the person is entitled; modifies provisions relating to successor, contractor, and corporate officer premium liability; and authorizes the Department of Labor and Industries to use statutory collection procedures against health care providers who are overpaid.	C 243 L 04

BILL NO.	PRIME SPONSORS	SUMMARY	SINE DIE STATUS
SB 6356	Honeyford	Physician assistants. Authorizes physician assistants to assist workers who are filing claims for simple industrial injuries in applying for compensation; requires the Department of Labor and Industries to report to specified legislative committees by December 1, 2006, on the implementation of the act; and provides that substantive provisions of the act expire July 1, 2007.	C 163 L 04
SSB 6428	Honeyford	Health care providers. Authorizes the Board of Industrial Insurance Appeals to suspend a provider's eligibility to provide services to injured workers on the Department of Labor and Industries' petition in connection with a provider appeal.	C 259 L 04
SSB 6615	Honeyford	Workers with developmental disabilities. Extends the preferred worker program to injured workers who have a development disability (thereby allowing the Department of Labor and Industries to reduce or eliminate premiums owed by and charges against employers of such workers).	C 258 L 04
WORKPLACE SAFETY			
2SSB 6599	Honeyford	<p>Cholinesterase monitoring. Requires the Department of Labor and Industries (Department) to collect, correlate, and analyze certain data related to cholinesterase tests.</p> <p>Partial Veto: Vetoes the requirement that the Department make reasonable reimbursements on a quarterly basis as specified in the 2003-05 operating budget.</p>	C 272 L 04

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Other Bills Passed Out of Committee

BILL NO.	PRIME SPONSOR	SUMMARY	STATUS
<i>BUILDING & CONSTRUCTION</i>			
HB 1547	Conway	<i>Construction liens -- residential homeowners.</i> Permits liens for materials and labor supplied after notice is given (instead of 10 days before notice is given); applies this change to new construction as well as repair/remodel of single-family homes; limits amount of recovery; and modifies the form of the notice.	HRules C
HB 2624	Wood	<i>Elevator code – private residential conveyances.</i> Delegates rulemaking authority related to private residential conveyances to the Department of Labor and Industries. Similar Senate bill (SB 6650) enacted.	HRules C
HB 2625	McCoy	<i>Mobile/manufactured homes and factory assembled structures.</i> Deletes provisions relating to a temporary statewide fee schedule for mobile/manufactured homes and factory assembled structures. Similar Senate bill (SB 6649) enacted.	HRules C
<i>BUSINESS LICENSING & REGULATION</i>			
EHB 1369	Romero	<i>Land surveyors.</i> Requires land surveyors to complete 15 hours of continuing professional development per year.	S 2nd Reading
SHB 2325	Wood	<i>Collection agencies.</i> Limits collection agency communication with people other than the debtor for the purpose of locating the debtor.	HRules R
HB 2484	Conway	<i>Public accounting.</i> Makes various changes to the Public Accountancy Act, including adding penalties for imposters and exam cheaters, extending certain grace periods to obtain a certified public accountant license, and revising experience requirements for reciprocity applicants from other states. Identical Senate bill (SB 6123) enacted.	SFinSer/Ins/H
ESHB 2513	Hudgins	<i>Interior designers.</i> Establishes a system of registration for interior designers, and sets criteria for becoming registered; and allows only those who are registered to use the title interior designer, but permits others to practice interior design.	SComm & Trade
SHB 2672	Moeller	<i>Local fireworks ordinances.</i> Directs the State Fire Marshal to convene a task force of local fire officials and fireworks industry representatives to make a recommendation to the Legislature by December 1, 2004, regarding whether local governments should be able, when adopting ordinances stricter than state law, to have these ordinances become effective earlier than one year after adoption.	HRules R
HB 2809	Conway	<i>Business and professions account.</i> Creates a dedicated account for fees used to pay for regulating certain professions.	HRules C
HB 2833	Conway	<i>Sellers of travel.</i> Requires those for whom consulting or advising regarding travel and accommodation arrangements is a part of their job, whether or not a principal duty, to register with the Department of Licensing as a seller of travel.	HRules R

BILL NO.	PRIME SPONSOR	SUMMARY	STATUS
SHB 3186	Hudgins	Contact centers. Requires contact center employees, upon request, to identify their employer's identity and location; prohibits contact center employees from soliciting personal information from other parties without informing them that disclosure is optional and obtaining their consent; requires entities offering goods for sale that contract with contact centers to require compliance with these provisions, and to notify buyers of contact center locations; and makes violations of these provisions unfair acts for purposes of applying the state Consumer Protection Act.	HRules R
COLLECTIVE BARGAINING			
HB 2921	Fromhold	Classified school employees – bargaining units. Prohibits dividing an existing appropriate bargaining unit of classified school employees unless the parties agree; and requires the Public Employment Relations Commission to avoid excessive fragmentation in determining classified school employee bargaining units.	SRules 2
2SHB 3113	Cooper	Ferry employees – past practices. Requires the Washington State Ferries and ferry worker representatives to negotiate over the practice of including preferential hiring and successor clauses in Requests for Proposals for contracts to operate vessel galley services.	HRules R
HB 3183	Conway	State patrol officers – wage bargaining. Requires, for state patrol officers, bargaining for wages and wage-related matters with the Governor's Labor Relations Office and bargaining non-wage matters with the State Patrol; and states that an arbitration award is not binding on the Legislature and, if the Legislature does not approve funding for the wage and wage-related matters, is not binding on the state or the Washington State Patrol.	SHwys & Trans
HJM 4037	Conway	Organizing rights. Petitions the Congress to enact the Employee Free Choice Act of 2003 to protect workers' rights to organize.	HRules R
EMPLOYMENT			
SHB 2352	Hudgins	Training of successor employees. Requires certain employers to give affected employees and the Department of Labor and Industries 10 days' advance notice of a layoff of workers required to train other persons to perform their job duties; and provides for damages and civil penalties.	HRules R
SHB 3187	Romero	Offshore outsourcing. Prohibits work under certain state contracts from being performed at locations outside the United States; and makes this prohibition applicable to state personal services, purchased services, and civil service contracts.	H2nd Reading
GAMBLING, HORSE RACING & LOTTERY			
HB 1667	Conway	Local government land use powers. Recognizes that local jurisdictions may exercise land use and zoning powers with respect to licensed gambling activities.	S2nd Reading
HB 2688	Wood	Lottery -- criminal history information. Authorizes the Lottery Commission to conduct criminal history background checks, including FBI fingerprint checks, on individuals seeking employment or a contract with the Lottery.	S2nd Reading

BILL NO.	PRIME SPONSOR	SUMMARY	STATUS
E2SHB 2776	Cody	Problem gambling. Directs the Gambling Commission to levy a surcharge on license fees for businesses conducting gambling activities, except non-profits, of 0.5 percent of net proceeds in FY 2005 and 1 percent thereafter; and deposits money from the surcharge into a new problem gambling treatment account to be used for prevention and treatment of problem gambling and training of treatment providers, under a program in the Department of Social and Health Services.	S1st Reading
LEAVE			
SHB 2940	Simpson, G.	Leave for children's educational activities. Makes certain employees entitled to take up to four hours of leave per calendar quarter to participate in parent-teacher school conferences.	HRules C
LIQUOR & TOBACCO			
E2SHB 2131	Grant	Liquor retail sales. Requires the Liquor Control Board to maximize revenue through additional hours of operation and in-store merchandising.	S Ways&Means
SHB 2686	Hudgins	Cigarette transportation. Gives the Liquor Control Board authority to inspect the records of individuals transporting cigarettes and of contract and common carriers involved in the transportation of cigarettes.	S2nd Reading
HB 2831	Chandler	Special occasion liquor licenses – fairs. Allows county and area agricultural fairs to count a multi-day fair as one event for the purpose of the 12-day per year limit on special occasion licensees serving alcohol. Similar Senate bill (SB 6480) enacted.	S2nd Reading
UNEMPLOYMENT COMPENSATION			
HB 3160	Conway	Labor disputes. Removes the disqualification from unemployment benefits in a multi-employer bargaining unit labor dispute when the dispute arose from negotiations in which the employer's last offer before the start of the strike or lockout would have resulted in a substantial deterioration of working conditions.	HRules C
WAGE AND HOUR			
HB 1548	McCoy	Penalties for wage payment violations. Requires an employer who violates wage payment laws to pay interest to the worker and civil penalties to the supplemental pension fund; provides for appeal of citations; preserves private rights of action; specifies collection procedures; and authorizes rule-making.	H Rules R
HB 2623	Conway	Funding for prevailing wage program. Discontinues the quarterly transfer of 30 percent of the Public Works Administration Account to the state General Fund.	HApprop
WORKFORCE TRAINING			
SHB 2439	Conway	Apprenticeship utilization requirements. Requires that no less than 15 percent of total labor hours on state public works projects that are estimated to cost \$1 million or more be performed by apprentices; and permits awarding agencies to adjust apprentice utilization requirements for specified reasons.	SComm & Trade

BILL NO.	PRIME SPONSOR	SUMMARY	STATUS
WORKPLACE SAFETY			
E2SHB 1517	Cooper	<i>Objectives for fire department services.</i> Requires written policies on fire department services, structure, number of employees, and functions; and requires policies on turnout times, response times, and performance objectives.	SComm & Trade

2004 SESSION REPORT
House Commerce & Labor Committee

Bills Referred to Committee

BILL NO.	SPONSOR	SUMMARY
<i>BUILDING & CONSTRUCTION</i>		
HB 2845	Sump	<i>Contractor registration.</i> Limits local government liability for issuing a building permit to a contractor without verifying that the contractor is registered to those instances when the local government's failure to verify is "knowing and willful."
HB 2900	Schindler	<i>Electrical code -- HVAC/R speciality.</i> Provides that, before December 1, 2004, certain persons may be certified as HVAC/R specialty electrical administrators or electricians without examination.
HB 2922	Cooper	<i>Fire protection sprinkler fitters.</i> Establishes licensing and certification for sprinkler fitter contractors and workers to be administered by the state fire marshal.
HB 3127	McMorris	<i>Electrical code -- armed service experience.</i> Provides that, in determining whether armed service experience may be substituted for work experience for purposes of qualifying to take the exam to become certified as an electrician, the Department of Labor and Industries should allow shipboard experience to be substituted for work experience.
HB 3193	Schoesler	<i>Pump installer code.</i> Provides for licensure, as domestic or commercial pump installers, of person who meet certain examination and experience requirements; provides for licensure without examination for persons with at least two years' experience as a pump installer; specifies that additional proof of competency may not be required to engage in the trade of pump installing; and establishes an advisory board.
<i>BUSINESS LICENSING & REGULATION</i>		
HB 1439	Kenney	<i>Residential seller disclosure -- uncertified wood stoves.</i> Requires sellers of residential real estate to disclose uncertified wood stoves and fireplace inserts.
HB 2305	McMahan	<i>Cosmetologists.</i> Extends until June 30, 2005, the period during which an expired license, or additional licenses, in cosmetology, manicuring, esthetics, or barbering may be obtained without taking the examination, and makes other technical and housekeeping changes to the cosmetology law. Similar Senate bill (SSB 6341) enacted.
HB 2351	Hudgins	<i>Contact centers.</i> Requires contact center employees, upon request, to provide certain identifying information, and also requires that, upon request, communications with contact centers in foreign countries be rerouted to the U.S.; prohibits contact center employees in foreign countries from soliciting personal information without disclosure and consent; and makes violations subject the Consumer Protection Act.
HB 2423	Hudgins	<i>Service stations.</i> Directs the State Patrol to adopt rules for safe operation of unattended gas stations, and specifies minimum rules.
HB 2613	Schoesler	<i>Auction of vessels.</i> Permits a licensed auction company that is also licensed as a motor vehicle dealer to auction vessels (boats) without being licensed at a vessel dealer.
HB 2656	Conway	<i>Auto dealers.</i> Modifies the definition of "bushing," a prohibited practice for motor vehicle dealers.
<i>COLLECTIVE BARGAINING</i>		
HB 2343	Dunshee	<i>Teachers -- negotiating impasses.</i> Establishes procedures and timelines for negotiating teacher collective bargaining contracts, with requirements for settling negotiation impasses through binding interest arbitration.

BILL NO.	SPONSOR	SUMMARY
HB 2386	Anderson	Teachers -- public negotiating. Makes contract negotiation sessions between school districts and certificated educational employees open to the public.
HB 2664	Conway	State patrol officers – wage bargaining. Expands the wage-related subjects over which the State Patrol officers are required to collectively bargain to include rates of pay and wage levels.
HB 2926	Conway	Organizing rights – hearings. Allows a hearing before the Human Rights Commission when a person's right to form, join, or assist a labor organization is interfered with or restrained by another.
HB 3093	Anderson	Teachers -- negotiating impasses. Requires mandatory fact-finding if teacher bargaining disputes are not settled by the date on which the district must adopt its budget, and if the dispute is not settled within five days after the fact-finder's report is received, the Public Employment Relations Commission must hold a public hearing on the report; and prohibits teacher strikes and requires the Attorney General's Office to seek an injunction if the strike occurs or threatens to occur on a school day.
HB 3153	Conway	Organizing rights – use of public funds. Prohibits health care facilities from using public funds to encourage or discourage unionization.
EMPLOYMENT		
HB 2159	Conway	Employer disclosures. Requires employers of 10 or more employees to provide specified information to applicants about positions of employment.
HB 2405	Romero	Offshore outsourcing. Prohibits work under certain state contracts from being performed at locations outside the United States; and makes this prohibition applicable to state personal services, purchased services, and civil service contracts.
HB 2422	Hudgins	Social Security numbers. Prohibits employers from requiring applicants to provide social security numbers prior to offers of employment; and requires that requests for social security numbers be in writing and state that providing social security numbers is voluntary.
HB 2565	Hudgins	Consumer reports. Amends the Fair Credit Reporting Act to prohibit persons from procuring consumer reports for employment purposes unless, upon receipt, such persons immediately furnish such reports to consumers to whom such reports relate.
HB 2768	Hudgins	Offshore outsourcing. Prohibits work under certain state contracts from being performed at locations outside the United States; and makes this prohibition applicable to state public works and other contracts.
GAMBLING, HORSE RACING & LOTTERY		
HB 2746	Kirby	Social card games. Prohibits the Gambling Commission from issuing new licenses for card rooms; and permits existing card rooms to be relicensed, and pending applications for card rooms to be approved.
HB 3119	Conway	Betting limits. Requires a 60 percent vote of the Legislature to increase the maximum wager for any gambling activity regulated by the Washington State Gambling Commission.
LEAVE		
HB 2399	Dickerson	Family leave insurance. Establishes the family leave insurance program; provides for payment of benefits of \$250 per week for up to five weeks to employees on unpaid family leave; and provides for assessment of premiums of 2 cents per hour worked per employee to be paid equally by employers and employees.
HB 3037	Simpson, G.	Family leave -- seniority benefits. Makes an employee entitled to accrue seniority benefits during any period of family leave under federal, state, or local law.

BILL NO.	SPONSOR	SUMMARY
LIQUOR		
HB 2927	Conway	Beer and wine manufacturers and distributors. Requires authorized representatives for breweries and wineries outside of Washington, either within the United States or foreign, to obtain a certificate of approval from the Liquor Control Board (Board) to sell beer or wine in Washington; requires certificate holders to post prices and meet other liquor control requirements; and directs the Board to set the fee for a certificate of approval to cover the cost of regulating certificate holders. Similar Senate bill (SSB 6655) enacted.
UNEMPLOYMENT COMPENSATION		
HB 2555	Blake	Training benefits -- pulp, paper, and paperboard workers. Makes up to 156 weeks of training benefits available to dislocated workers who: (1) have worked in the pulp, paper, and paperboard industry; (2) reside in a county with an unemployment rate 20 percent or more above the state average; and (3) have claims with an effective date between November 30, 2003, and January 2, 2005.
HB 2668	Moeller	Good cause for leaving work. Provides that, for purposes of initial eligibility for unemployment compensation, an individual who relocates for a spouse's employer-initiated mandatory transfer has "good cause" for leaving work voluntarily.
HB 2674	Ruderman	Self-employment assistance. Establishes a self-employment assistance program; and provides that unemployed individuals who are likely to exhaust regular benefits may receive self-employment allowances in lieu of such benefits, as well as other services such as entrepreneurial training, counseling, and technical assistance.
WAGE AND HOUR		
HB 2981	Condotta	Minimum wage rate -- exclusive state authority. Preempts local authority to establish minimum wage and hour standards.
ESSB 5697	Hewitt	Minimum wage rate – inflation rate. Adjusts the minimum wage rate only when the state unemployment rate is less than the national unemployment rate.
WORKERS' COMPENSATION		
HB 2750	Clements	Premium liability. Requires the Department of Labor and Industries to release certain entities from liability for industrial insurance premiums of their contractors and subcontractors if: (1) they submit certain information about their contracts to the Department; and (2) the Department determines that the work was properly classified, and the premiums due have been paid.
HB 2880	Haigh	State fund audits. Requires the Department of Labor and Industries to prepare annual financial statements based on generally accepted accounting principles and, beginning in 2005, requires the State Auditor to conduct an annual audit of the state fund, including a financial audit and an independent actuarial review of issues such as claims reserves, effect of discounting, accuracy of reserve estimates, and impact of proposed rates on actuarial soundness.
HB 2916	Condotta	Industrial insurance accountability. Requires the Department of Labor and Industries to: (1) establish priorities for the delivery of its services; (2) annually assess whether its programs and activities contribute to its priorities; (3) release its annual assessment by January 1 of each year; and (4) develop a plan for funding programs not related to the administration of Title 51 RCW by September 1, 2004.
HB 2917	Condotta	Wage and benefit simplification. Makes various changes in calculating workers' compensation benefits, including using the implicit price deflator instead of the consumer price index for inflation adjustments, requiring monthly wages to be calculated based on the average over four successive quarters in 24 months and excluding fringe benefits, and basing the amount of monthly payments on 65.5 percent of monthly wages.

BILL NO.	SPONSOR	SUMMARY
HB 2918	McMorris	Industrial insurance system competitiveness. Makes changes in the industrial insurance system, including requiring employees to notify employers of workplace accidents in 14 days, allowing for final settlement of claims, requiring claims to be acted on in 90 days and for management of claims to be contracted out, authorizing a managed care system for medical benefits, basing premiums on payroll, specifying the use of industrial insurance funds, and revising limits on attorney's fees charged in industrial insurance cases.
HB 2946	McMorris	Self-insurers' claims management. Makes changes throughout the industrial insurance code to permit self-insurers to process all aspects of the claims of their injured workers without prior approval of the Department of Labor and Industries, and creates procedures for protesting self-insurer orders to the Department.
HB 2947	Condotta	Insolvent self-insurers. Requires the Department of Labor and Industries to contract with a third-party to manage the claims of insolvent self-insured employers, subject to audits of the third-party by the Department or on request of the Self-Insurer's Insolvency Trust Board.
HB 3019	Condotta	Premium liability. Provides that public entities and contractors are not responsible for industrial insurance premiums of subcontractors if the subcontractors have industrial insurance accounts in good standing with the Department of Labor and Industries when the contracts are let.
HB 3058	McCoy; L&I Request	Worker fraud. Adds to the Industrial Insurance Act a definition of fraud that will apply when the payments of benefits have been induced by fraud; provides that it is fraud if payments are greater than the entitlement and one of the following was used: willful false statement, willful misrepresentation or concealment of a material fact, or other willful deceptive scheme or device; and adds a definition of "material fact." Similar House bill (SHB 3188) enacted.
HB 3059	Conway; L&I Request	Premium liability. Modifies provisions relating to successor, contractor, and corporate officer premium liability. Similar House bill (SHB 3188) enacted.
HB 3060	Kenney; L&I Request	Health care providers. Allows the Department of Labor and Industries to use current statutory collection procedures against providers who are overpaid.
HB 3108	Conway	Premium rates. Requires the Department of Labor and Industries, in consultation with the Workers' Compensation Advisory Committee, to adopt rules regarding the level of contingency reserve that is needed to maintain actuarial solvency of the accident and medical aid funds and, if there are excess funds, to prohibit refunds and allow a temporary rate reduction if employers are given specified notice and the Legislature is notified 60 days in advance; and allows the business or labor members of the WCAC to request the Department to contract for an independent actuarial audit within 10 days of the filing of proposed rates, with an audit report to the WCAC, Governor, and Legislature.
2SSB 5378	Honeyford	Wage and benefit simplification. Changes the calculation of wages for determining industrial insurance benefits by, among other things, applying a 12-month averaging formula and excluding fringe benefits; changes the amount of benefits by using an across-the-board 65.5 percent of wages; adjusts benefits using the implicit price deflator; and increases the annual cap on vocational rehabilitation benefits from \$4,000 to \$5,000.
ESB 6317	Honeyford	Self-insurers' claims management. Gives self-insurers nearly the same authority regarding their claims as the Department of Labor and Industries has for state fund claims.
SB 6336	Sheldon	Group self-insurance – logging industry. Authorizes group self-insurance in the logging industry.
SSB 6391	Honeyford	State fund. Requires the Department of Labor and Industries to establish improvement priorities and the Office of Financial Management to draft a plan for funding programs not directly related to industrial insurance that are currently funded from the state fund.

BILL NO.	SPONSOR	SUMMARY
ESSB 6395	Honeyford	Applications. Requires a worker to report a workplace accident to the employer within five working days; changes the notification requirement upon which the statute of limitations begins running for occupational disease claims; deletes the "change of circumstances" application; and changes the date from which failure to act on a reopening application makes it "deemed granted."
SSB 6414	Roach	State fund audits. Directs the Department of Labor and Industries to prepare financial statements on the state fund; directs the Joint Legislative Audit and Review Committee and the state Actuary to oversee annual audits of the state fund; and requires that annual reports on audit be issued to certain entities, including the Legislature.
SB 6461	Hewitt	Hours vs. payroll. Requires the Department of Labor and Industries to report by December 1, 2004, on the positive and negative aspects of using payroll vs. hours in reporting premiums.
WORKPLACE SAFETY		
HB 2865	Condotta	Monitoring cholinesterase. Requires the Department of Labor and Industries, in implementing rules on cholinesterase monitoring, to: (1) collect and analyze data to determine whether cholinesterase testing is warranted, and if so, what thresholds should trigger testing requirements; (2) pay health care facilities and professionals for services from medical aid fund appropriations; and (3) reimburse agricultural employers for certain costs. Another bill (2SSB 6599) was enacted relating to cholinesterase monitoring.
HB 3027	Conway	Ergonomics. Requires the Department of Labor and Industries to publish lists of employers with the best and worst records of repetitive motion injuries.
HB 3134	Schoesler	Federal law. Suspends the Washington Industrial Safety and Health Act until the federal Occupational Safety and Health Act is repealed.



STATE OF WASHINGTON

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April 1, 2004

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, Second Substitute Senate Bill No. 6599 entitled:

"AN ACT Relating to required elements of cholinesterase monitoring programs for certain pesticide handlers;"

Second Substitute Senate Bill No. 6599 requires the Department of Labor and Industries to collect, correlate, and analyze certain data related to cholinesterase tests.

Section 3 would have required the department to make reasonable reimbursements on a quarterly basis as specified in the operating budget. This section refers to an appropriation in the operating budget that is to be used to reimburse agricultural employers for training, travel, and record-keeping costs related to complying with the cholinesterase monitoring rule.

In order to directly reimburse employers, the department will have to create a new payment system. Section 3 dictates how the department should reimburse employers, thus limiting the agency's flexibility on the design of the new system. The agency may decide that it is more practical to reimburse monthly, biannually or annually. In any case, the department should have the flexibility to make this decision.

For these reasons, I have vetoed section 3 of Second Substitute Senate Bill No. 6599.

With the exception of section 3, Second Substitute Senate Bill No. 6599 is approved.

Respectfully submitted,

Gary Locke
Governor